	Application No.	Amiliantia
	Application No.	Applicant(s)
	10/542,684	COLUCCI ET AL.
Notice of Allowability	Examiner	Art Unit
	Jason M. Nolan, Ph.D.	1626
The MAILING DATE of this communication appears on the cover sheet with the correspondence address All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.		
1. This communication is responsive to <u>10/9/2007</u> .		
2. X The allowed claim(s) is/are 1-8 and 18-21 (now 1-12).		
<ul> <li>3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) ☐ All b) ☐ Some* c) ☐ None of the:</li> <li>1. ☐ Certified copies of the priority documents have been received.</li> </ul>		
2. Certified copies of the priority documents have been received in Application No		
3. Copies of the certified copies of the priority documents have been received in this national stage application from the		
International Bureau (PCT Rule 17.2(a)).		
* Certified copies not received:		
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.		
4. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.		
5. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.		
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached		
1)  hereto or 2)  to Paper No./Mail Date		
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date		
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).		
6. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.		
Attachment(s)	5 Maria (16 a 17	
1. Notice of References Cited (PTO-892)	5. Notice of Informal I	• •
2. Notice of Draftperson's Patent Drawing Review (PTO-948)	6.	ite
Information Disclosure Statements (PTO/SB/08),     Paper No./Mail Date	7. 🛭 Examiner's Amend	ment/Comment
4. Examiner's Comment Regarding Requirement for Deposit	8. Examiner's Statem	ent of Reasons for Allowance
of Biological Material	9. 🗌 Other	

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### **DETAILED ACTION**

This Office Action is in response to Applicants Amendment – After Non-Final Rejection, filed 10/09/2007. Claims 1-8, 12, 14-16, & 18-21 are pending in the instant application; of which Claims 8, 20, & 21 are currently amended. Claims 12, 14-16, 20, & 21 are withdrawn and Claims 9-11, 13, & 17 are canceled.

## Response to Amendment

Applicant's amendments with respect to Claims 8, 20, & 21 have been fully considered and are entered. The status identifiers for said claims are corrected herein. The ODP rejection of Claims 1, 3-8, & 19 is withdrawn per Terminal Disclaimer. The objection to Claims 2 & 18 is withdrawn.

### Terminal Disclaimer

The terminal disclaimer filed on 10/09/2007 disclaiming the terminal portion of any patent granted on this application that would extend beyond the expiration date of US Patent 6,525,025 has been reviewed and is accepted. The terminal disclaimer has been recorded. The obviousness-type double patenting rejection of Claims 1, 3-8, & 19 is withdrawn.

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## Rejoined Inventions

Claims 1-8, 18, & 19 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(b), Claims 20 & 21, directed to the products with intended use, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104. Claims 12 & 14-16 directed to the invention(s) directed to the process of using the allowable product require all the limitations of an allowable product claim, however have NOT been rejoined.

Because a claimed invention previously withdrawn from consideration under 37 CFR 1.142 has been rejoined, the restriction requirement between **Groups I & VII** as set forth in the Office action mailed on 05/09/2007 are hereby withdrawn. In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Therefore, the restriction requirement (Lack of Unity) between the examined Groups I & VII and the non-examined, withdrawn Groups II – IV is maintained. Application/Control Number:

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### Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Raynard Yuro on December 5, 2007.

The application has been amended as follows:

- 1. Delete/Cancel Claims 12 & 14-16. These claims are canceled without prejudice; therefore Applicants retain the right to file divisional or continuation applications on the contents thereof.
  - 2. Amend the status identifier of **Claim 8** from (original) to (currently amended).
- 3. Amend the status identifier of **Claims 20 & 21** from (withdrawn) to (withdrawn -currently amended).

### Conclusion

Claims 1-8 & 18-21 are allowed and are now renumbered as Claims 1-12.

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# Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Nolan, Ph.D. whose telephone number is (571) 272-4356 and electronic mail is Jason.Nolan@uspto.gov. The examiner can normally be reached on Mon - Fri (9:00 - 5:30PM). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason M. Nolan Patent Examiner Art Unit 1626 (571) 272-4356 Joseph M<sup>c</sup>Kane

Supervisory Patent Examiner

Art Unit 1626 (571) 272-0699